

### REMARKS

This communication is filed in response to the office action issued November 6, 2003, having a shortened statutory period for response which expires on February 6, 2003.

#### Objection to the Drawings

The Examiner objects to the drawings, requesting submission of additional drawings showing the steps of “comparing received ACK packet from the destination station with the retransmission packet in the message queue . . . .” Office Action, page 2. Applicants respectfully disagrees with the grounds of this objection.

The first sentence of 35 U.S.C. § 113 requires submission of drawings only when such drawing is necessary for the understanding of the invention. Here, the invention and the claims are directed to a microprocessor or a comparator which perform certain algorithms to implement a process. At the time of the invention, an ordinary skilled artisan would have known what was meant by the claimed recitation. Accordingly, an illustration thereof is not necessary for understanding the invention.

The second sentence of 35 U.S.C. § 113 clarifies that where a drawing is not necessary to the understanding of the invention but Applicant admits such an illustration and fails to submit one, then the Office may require submission of the drawing. See *M.P.E.P.* § 608.02. In the instant case, the specification does not admit an illustration of

the claimed recitation. Hence, the Office's request for a drawing submission is not supported by statutory mandates.

Finally, *M.P.E.P.* § 601.01(f) instructs: "It has been USPTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. § 113 (first sentence)." The instant application contains several method claims. Consistent with *M.P.E.P.* § 601.01(f), Applicant respectfully submits that a drawing as suggested by the Office is not required.

Reconsideration and withdrawal of the objection under 37 C.F.R. § 1.83(a) are respectfully requested.

#### Objection to the Specification

In response to the Examiner's objection, the specification has been amended to correct typographical errors. No new matter has been added. Entry of the amendment is respectfully requested.

#### Claim Objection

It is respectfully submitted that the amendment made herein overcomes the Examiner's objection to claim 6.

Rejection under 35 U.S.C. § 112, First Paragraph

The Examiner rejects claims 2, 7 and 9 under 35 U.S.C. § 112, first paragraph. In supporting this rejection, the Examiner alleges that the specification does not adequately describe “how to consider the sequence number, destination address . . . .”

Means for considering the sequence number, etc., is an algorithm which is expressly disclosed, among others, at the page 25, second paragraph of the specification. Reconsideration and withdrawal of the rejection under 35 U.S.C. § 112, first paragraph, are respectfully requested.

Rejection under 35 U.S.C. § 102(e)

Claims 8 and 10 stand rejected as allegedly anticipated by U.S. Patent No. 6,118,765 to Phillips.

Phillips is directed to a system for eliminating unnecessary retransmission of messages. The reference discloses that the host computer retransmits data packets based on the expected round trip time and whether a timely ACK is received from the destination computer. To account for latency, the reference discloses a slow link TCP optimizer which determines whether a data packer is a valid packet or an apparent retransmission. See col. 9, lines 22-34. In reference with Figure 5 “Slow link TCP optimizer 510 does not store a queue of data packets 120. Instead, discriminator 514

determines whether a data packet is valid based on round trip timer 512 and data tables 516. This eliminates a need for a buffer queue which could otherwise be employed for determining whether a data packet 120 is a valid packet, a valid retransmitted packet or an unnecessary retransmitted packet. Col. 9, lines 57-63.

As amended herein, claim 8 recites: “comparing each received TCP packet from the source station with the TCP packets *in the message queue at a source radio*.” (Emphasis added.) Thus, claim 8 is not anticipated by Phillips. Claim 10 is deemed patentable at least by the virtue of its dependence from claim 8.

Reconsideration and withdrawal of this rejection are respectfully requested.

Rejection under 35 U.S.C. § 103

Claims 1, 3-6 and 11-13 stand rejected as allegedly unpatentable over Phillips in view of U.S. Patent No. 6,018,516 to Packer.

As explained, Phillips fails to disclose or suggest, among others, a source radio having a message queue, much less, the steps of comparing and discarding each received TCP packet from the source station with those in the message queue.

The secondary reference fails to address this deficiency. Packer is directed to a method for minimizing packet retransmission. At the paragraph bridging columns 2 and 3, the reference discloses that data is held for a minimum period of time after

transmission. If an ACK is received while the retransmitted is being held, then the retransmission data is discarded. The reference also discloses selectively holding retransmission data based on ascertainable factors. At Figs. 2a-2d, Packer alleges certain process steps for determining whether additional retransmission is warranted. Packer does not disclose nor suggest the steps of receiving and maintaining retransmission TCP packets from the source station. Nor does the reference disclose “comparing each received TCP packet from the source station with the TCP packets in the message queue at the source radio” as claimed in claim 1.

Independent claims 4, 6, 11 and 13 recite similar features which are not disclosed in the references even if combined. For example, independent claim 4 recites “evaluating each TCP message received at the source radio to determine whether the received message is a TCP acknowledgment from the destination station corresponding to a TCP retransmission message in the message queue”. Independent claim 6, recites “means for evaluating each TCP message received at the source radio to determine whether the received message is a TCP acknowledgment from a destination radio corresponding to a TCP retransmission in the message queue”. Independent claim 11 recites “recognizing a TCP acknowledgment message received at the radio”. Finally, independent claim 13 recites “means for recognizing the receipt of a TCP acknowledgment message at each radio”.

Claims 3, 5 and 12 depend from one of these independent claims and are deemed patentable at least by the virtue of their dependence.

Reconsideration and withdrawal of the obviousness rejection are respectfully requested.

### CONCLUSION

Although an extension of time is not deemed necessary at this time to maintain the instant application pending, the Office is requested and hereby authorized to charge any required extension-of-time fees against deposit account number 04-1679 to Duane Morris, LLP.

If any point remains that is deemed best resolved through a telephonic conversation, the Office is hereby requested to contact the undersigned directly.

Respectfully submitted,



L. Lawton Rogers, III, Reg. No. 24,302  
D. Joseph English, Reg. No. 42,514  
Mark C. Comtois, Reg. No. 46,285  
Patrick D. McPherson, Reg. No. 46,255

DUANE MORRIS LLP  
1667 K Street N.W., Suite 700  
Washington, D.C. 20006-1608  
Telephone: (202) 776-7800  
Fax: (202) 776-7801

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